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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/585,707	05/31/2000	Yousheng Cao	MINEP001	3822

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EXAMINER

NALEVANKO, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/585,707

Applicant(s)

CAO ET AL.

Examiner

Christopher R Nalevanko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/21/2004 has been entered.

Response to Arguments

1. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-8 and 10-22 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Ellis et al (2003/014998).

Regarding Claim 1, Ellis shows a method for delivery of scheduled broadcasted programs (page 3 section 0060, any type of show or television programming) from a media server to a plurality of client machines via a transmission media (fig. 2a, distribution facility with remote media server, page 4 section 0065, communications path, page 5 sections 0073-0075, remote media server), the method comprising caching program content of broadcasted programs in local storage associated with the media server (page 7 section 0094-0096, media server caching recorded programs, page 15 sections 0165-0166, remote media server caching program in real-time associated with pause request), the broadcasted programs being produced externally (it is inherent that a cable head-end receives programming from a producing source), delivering the broadcasted programs from the media server the client machines by streaming the program content from the local storage to the client machines via the transmission medium (page 7 section 0097, streaming to client from remote media server), receiving at the media server (page 15 sections 0165-0166, issuing pause request to remote media server) a pause request from a particular on of the client machines requesting to pause a particular one of the programs (page 15 sections 0165-0166), and while continuing to deliver the programs to remaining clients (it is inherent that a pause request does not stop all other clients machines, page 7 section 0094-0096, not interrupting other users of a recorded program with VCR like controls) performing the pause request by server-side retention of the program content for the particular on of the broadcasted programs so as to render the program content following the pause request to be subsequently available to a device chosen by a user of the particular one of the client machines (page 6 section

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0081, allocated space for each user in media server, page 15 sections 0165-0166, remote media server stores program from pause request forward), as if the user is continuing live with the programs while the other machines are ahead of the program (page 15 sections 0165-0166, catch up to aired program, signifying that they are behind actual program time).

Regarding Claim 2, Ellis shows, during a pause request, recording in the local storage a location of the program (page 14 section 0157, pointer in storage of program, page 15 sections 0165-0166, storing paused program at location in storage).

Regarding Claim 3, Ellis shows that the programs are stored in a storage space on the media server (page 6 section 0081, allocated space for each user in media server, page 15 sections 0165-0166, remote media server stores program from pause request forward).

Regarding Claim 4, Ellis shows that the transmissions medium is a data network (page 4 section 0065, communications path).

Regarding Claim 5, Ellis shows that the data is digital data (page 4 section 0064, digital television signals).

Regarding Claim 6, Ellis shows the ability to determine if an account for a user permits a pause request and ignoring the pause request when the account does not permit the pause (page 12 sections 00136-0141, checking user status, indicating that user must pay, and user denying payment, effectively ignoring pause command, page 15 section 0165, asking for payment and denying pausing if no payment). Ellis shows a variety of ways of controlling the pause request such as requiring the user to pay each pause or record time, therefore if the user selects not to pay, the pause request is not carried out.

Furthermore, Ellis shows indicating that a user may not record a show (page 13 section 0144).

Regarding Claim 7, Ellis shows sending a request to a server for a stored program delivering the remaining portion of the program from storage on server-side to the client through the transmissions medium (page 15 section 0165).

Regarding Claim 8, Ellis shows that a request includes what user sent the request (page 7 sections 0091-0092, fig. 4, user #). This indicates that the system can tell what user issued a request and knows where to send the requested video.

Regarding Claim 10, Ellis shows that a number of the delivered programs are delivered by a schedule (page 3 section 0060, television programming related to listings or schedule, page 7 section 0097, NVOD approach scheduling video program delivery).

Regarding Claim 11, Ellis shows that the transmissions medium is a data network (page 4 section 0065, communications path).

Regarding Claim 12, Ellis shows the use of TCP/IP protocols to transmit data, which suggest using an IP address (page 4 section 0070, page 9 section 0107, page 18 section 0188).

Regarding Claim 13, Ellis shows the ability to determine if an account for a user permits a pause request and ignoring the pause request when the account does not permit the pause (page 12 sections 00136-0141, checking user status, indicating that user must pay, and user denying payment, effectively ignoring pause command, page 15 section 0165, asking for payment and denying pausing if no payment). Ellis shows a variety of ways of controlling the pause request such as requiring the user to pay each pause or

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record time, therefore if the user selects not to pay, the pause request is not carried out.

Furthermore, Ellis shows indicating that a user may not record a show (page 13 section 0144).

Regarding Claim 14, Ellis shows the ability to determine if an account for a user permits a pause request and ignoring the pause request when the account does not permit the pause (page 12 sections 00136-0141, checking user status, indicating that user must pay, and user denying payment, effectively ignoring pause command, page 15 section 0165, asking for payment and denying pausing if no payment). Ellis shows a variety of ways of controlling the pause request such as requiring the user to pay each pause or record time, therefore if the user selects not to pay, the pause request is not carried out. Furthermore, Ellis shows indicating that a user may not record a show (page 13 section 0144). Additionally, Ellis shows confirming the pause request, which notifies the user (page 15 section 0165, confirmed pause request).

Regarding Claim 15, Ellis shows a media delivery server that provides media program content to client machines, the server comprising an access to a storage area that provides space for storing programs (page 7 section 0094-0096, media server caching recorded programs, page 15 sections 0165-0166, remote media server caching program in real-time associated with pause request), an account manager to determine whether a request by a client is authorized based on account information (page 12 sections 00136-0141, checking user status, indicating that user must pay, and user denying payment, effectively ignoring pause command, page 15 section 0165, asking for payment and denying pausing if no payment), a program streaming manager to stream content to

clients (page 7 section 0097, streaming to client from remote media server) in accordance with a schedule (page 3 section 0060, television programming related to listings or schedule, page 7 section 0097, NVOD approach scheduling video program delivery), and a pause/replay manager for receiving request and retaining the requested program in storage (page 15 sections 0165-0166, issuing pause request to remote media server) while continuing to stream content for the program to remaining clients (it is inherent that a pause request does not stop all other clients machines, page 7 section 0094-0096, not interrupting other users of a recorded program with VCR like controls) and processing a play request within a predefined time limit (page 15 sections 0165-0166, resume request, page 6 section 0083, predetermined time limit, page 16 section 0169, automatically deleting program if not accessed within a predetermined amount of time), as if the user is continuing live with the programs while the other machines are ahead of the program (page 15 sections 0165-0166, catch up to aired program, signifying that they are behind actual program time).

Regarding Claim 16, Ellis shows that the transmissions medium is a data network (page 4 section 0065, communications path).

Regarding Claim 17, Ellis shows using MPEG format (page 5 section 0077).

Regarding Claim 18, Ellis shows using a computer readable medium including computer code for delivery of broadcast programs (page 5 section 0077-0078, remote media server with processor and memory with code). All other limitations of the claim have been discussed with regards to Claim 1.

Regarding Claim 19, Ellis shows that the transmissions medium is a data network (page 4 section 0065, communications path).

Regarding Claim 20, the limitations of the claim have been discussed with regards to Claim 10.

Regarding Claim 21, the limitations of the claim have been discussed with regards to Claim 3.

Regarding Claim 22, the limitations of the claim have been discussed with regards to Claim 13.

Regarding Claim 23, the limitations of the claim have been discussed with regards to Claim 7.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis et al (2003/0149988) in further view of Goode et al (6,166,730).

Regarding Claim 9, Ellis fails to show that the resuming location differs from the initial location. Goode shows the ability to resume a paused video at a different location than the location initially viewed (col. 14 lines 25-55, open session allowing a different set top box to continue watching a video). It would have been obvious to one of ordinary

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skill in the art at the time the invention was made to modify the system of Ellis with the ability to view the remaining video at a different location, as in Goode, so that if a user was logged into a different computer or location he or she could still finish the video.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Nalevanko whose telephone number is 703-305-8093. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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